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# A call to take part in the Europe-wide discussion on copyright law

*by Dr. Ellen Euler, Deputy Director of the Deutsche Digitale Bibliothek*

“EU copyright policy must move with the times” declared EU Single Market Commissioner Michel Barnier at the launch of a [public consultation](#) as part of a review of EU copyright regulations. The issues raised are of enormous significance to the Deutsche Digitale Bibliothek. The Deutsche Digitale Bibliothek’s objective of offering free, media-unspecific access to culture and knowledge via the internet can only be achieved within the parameters set by copyright law.

There is little room for manoeuvre where protected content is concerned. At present it seems that the EU has Google or Google Books in mind whenever the question of access to culture and knowledge is raised. Take the [rules governing orphan works and out-of-print works](#). These rules were drawn up to facilitate the emergence of an alternative to Google Books in Europe. Although the [regulation for Germany](#) formally took effect on 01.01.2014, the existing problems will remain. Firstly, the regulation pertaining to orphan works is of very limited relevance with respect to the material that may be digitised; it relates only to audiovisual works and text and pictures embedded in text and is thus precisely designed not to be media-unspecific. Secondly, the privileges are enjoyed by only a select group of memory institutions, all of which must be non-commercial in nature. Beyond this, the regulation enhances accessibility but not the digital use of orphan works; ‘transformative usages’ remain illicit. That is, digitised works and orphan works that have been made accessible cannot be used in the added-value services that the Deutsche Digitale Bibliothek is keen to offer over and above its function as a purveyor of culture and knowledge.

We cannot be complacent about what we have achieved. Above all, we should not restrict our thinking to “retrodigitisation” but must also focus on “born digitals”(genuine digital content). The new Coalition Agreement, too, sets out no concrete strategy relating to true and actual digitals. It does, however, make express mention of the Deutsche Digitale Bibliothek as the most important project serving the digital knowledge community.

Extended privileges are required for online access to culture and knowledge. If they are not forthcoming, Europe will fall behind for good, and this against the backdrop of the latest ruling on Google Books. Based on the precept of fair use, the ruling allows Google, in Anglo-American regions, to make text extracts – and by analogy thumbnails in Google’s image search - accessible at no charge and without obtaining permission from authors. Europeana and the Deutsche Digitale Bibliothek will then be unable to offer anything significant to counter the predominance of Anglo-American culture in the internet.

Reforms to European copyright law must respect the cultural imperative of copyright law more than they have in the past and copyright law must be used accordingly to facilitate and promote the creative process. How the law evolves should be

determined by the need to provide conditions in which art can thrive rather than by the influence of a particular industrial interest group. Creative people must be able to access a sufficiently large pool of culture and knowledge.

The questions raised by the EU are aimed at a multitude of interest groups including many private users and public memory institutions. In the Open Knowledge Foundation we have a tool that has simplified the obtaining of answers to questions to such an extent that not just the established interest groups but also private individuals can take part. The [fixcopyright.eu](http://fixcopyright.eu) website contains a catalogue that explains the process and aims of the consultation clearly and provides background information on the questions, allowing all interested parties and organisations to take part in the consultation from now until 5<sup>th</sup> February and to do so with a minimum of inconvenience.

<https://www.deutsche-digitale-bibliothek.de/content/journal/hintergrund/aufruf-zur-teilnahme-der-diskussion-des-urheberrechts-auf-europaeischer-ebene?lang=en>